

PART 19 -- NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

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Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282, 2297f); sec. 201, 88 Stat. 1242, as amended

(42 U.S.C. 5841); Pub. L. 95 - 601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

Source: 38 FR 22217, Aug. 17, 1973, unless otherwise noted.

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§19.1 Purpose.

The regulations in this part establish requirements for notices, instructions, and reports by licensees to individuals participating in licensed activities and options available to these individuals in connection with Commission inspections of licensees to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, title II of the Energy Reorganization Act of 1974, and regulations, orders, and licenses thereunder regarding radiological working conditions. The regulations in this part also establish the rights and responsibilities of the Commission and individuals during interviews compelled by subpoena as part of agency inspections or investigations pursuant to section 161c of the Atomic Energy Act of 1954, as amended, on any matter within the Commission's jurisdiction.

[55 FR 247, Jan. 4, 1990]

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§19.2 Scope.

The regulations in this part apply to all persons who receive, possess, use, or transfer material licensed by the Nuclear Regulatory Commission pursuant to the regulations in parts 30 through 36, 39, 40, 60, 61, 70, or part 72 of this chapter, including persons licensed to operate a production or utilization facility pursuant to part 50 of this chapter, persons licensed to possess power reactor spent fuel in an independent spent fuel storage installation (ISFSI) pursuant to part 72 of this chapter, and in accordance with 10 CFR 76.60 to persons required to obtain a certificate of compliance or an approved compliance plan under part 76 of this chapter. The regulations regarding interviews of individuals under subpoena apply to all investigations and inspections within the jurisdiction of the Nuclear Regulatory Commission other than those involving NRC employees or NRC contractors. The regulations in this part do not apply to subpoenas issued pursuant to 10 CFR 2.720.

[59 FR 48959, Sept. 23, 1994, as amended at 61 FR 9902, Mar. 12, 1996]

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§19.3 Definitions.

As used in this part:

Act means the Atomic Energy Act of 1954, (68 Stat. 919) including any amendments thereto.

Commission means the United States Nuclear Regulatory Commission.

Exclusion means the removal of counsel representing multiple interests from an interview whenever the NRC official conducting the interview has concrete evidence that the presence of the counsel would obstruct and impede the particular investigation or inspection.

License means a license issued under the regulations in parts 30 through 36, 39, 40, 60, 61, 70, or 72 of this chapter, including licenses to operate a production or utilization facility pursuant to part 50 of this chapter. *Licensee* means the holder of such a license.

Restricted area means an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. *Restricted area* does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

Sequestration means the separation or isolation of witnesses and their attorneys from other witnesses and their attorneys during an interview conducted as part of an investigation, inspection, or other inquiry.

Worker means an individual engaged in activities licensed by the Commission and controlled by a licensee, but does not include the licensee.

[38 FR 22217, Aug. 17, 1973, as amended at 40 FR 8783, Mar. 3, 1975; 53 FR 31680, Aug. 19, 1988; 55 FR 247, Jan. 4, 1990; 56 FR 23470, May 21, 1991; 56 FR 65948, Dec. 19, 1991; 57 FR 61785, Dec. 29, 1992; 58 FR 7736, Feb. 9, 1993]

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§19.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

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§19.5 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be addressed to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D of part 20 of this chapter. Communications, reports, and applications may be delivered in person at the Commission's offices at 2120 L Street, NW., Washington, DC, or at 11555 Rockville Pike, Rockville, Maryland.

[53 FR 6138, Mar. 1, 1988, as amended at 53 FR 43420, Oct. 27, 1988]

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§19.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in the part under control number 3150-0044.

(b) The approved information collection requirements contained in this part appear in §§19.13 and 19.16.

[62 FR 52185, Oct. 6, 1997]

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§19.11 Posting of notices to workers.

(a) Each licensee shall post current copies of the following documents:

- (1) The regulations in this part and in part 20 of this chapter;
- (2) The license, license conditions, or documents incorporated into a license by reference, and amendments thereto;
- (3) The operating procedures applicable to licensed activities;
- (4) Any notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued pursuant to subpart B of part 2 of this chapter, and any response from the licensee.

(b) If posting of a document specified in paragraph (a) (1), (2) or (3) of this section is not practicable, the licensee may post a notice which describes the document and states where it may be examined.

(c)(1) Each licensee and each applicant for a specific license shall prominently post NRC Form 3, "Notice to Employees," dated August 1997. Later versions of NRC Form 3 that supersede the August 1997 version shall replace the previously posted version within 30 days of receiving the revised NRC Form 3 from the Commission.

(c)(2) Additional copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at 301-415-7232.

(d) Documents, notices, or forms posted pursuant to this section shall appear in a sufficient number of places to permit individuals engaged in licensed activities to observe them on the way to or from any particular licensed activity location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

(e) Commission documents posted pursuant to paragraph (a)(4) of this section shall be posted within 2 working days after receipt of the documents from the Commission; the licensee's response, if any, shall be posted within 2 working days after dispatch by the licensee. Such documents shall remain posted for a minimum of 5 working days or until action correcting the violation has been completed, whichever is later.

[38 FR 22217, Aug. 17, 1973, as amended at 40 FR 8783, Mar. 3, 1975; 47 FR 30454, July 14, 1982; 58 FR 52408, Oct. 8, 1993; 60 FR 24551, May 9, 1995; 61 FR 6764, Feb. 22, 1996; 62 FR 48166, Sept. 15, 1997]

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§19.12 Instruction to workers.

(a) All individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 100 mrem (1 mSv) shall be --

- (1) Kept informed of the storage, transfer, or use of radiation and/or radioactive material;
 - (2) Instructed in the health protection problems associated with exposure to radiation and/or radioactive material, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;
 - (3) Instructed in, and required to observe, to the extent within the workers control, the applicable provisions of Commission regulations and licenses for the protection of personnel from exposure to radiation and/or radioactive material;
 - (4) Instructed of their responsibility to report promptly to the licensee any condition which may lead to or cause a violation of Commission regulations and licenses or unnecessary exposure to radiation and/or radioactive material;
 - (5) Instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation and/or radioactive material; and
 - (6) Advised as to the radiation exposure reports which workers may request pursuant to §19.13.
- (b) In determining those individuals subject to the requirements of paragraph (a) of this section, licensees must take into consideration assigned activities during normal and abnormal situations involving exposure to radiation and/or radioactive material which can reasonably be expected to occur during the life of a licensed facility. The extent of these instructions must be commensurate with potential radiological health protection problems present in the work place.

[60 FR 36043, July 13, 1995]

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§19.13 Notifications and reports to individuals.

(a) Radiation exposure data for an individual, and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual, shall be reported to the individual as specified in this section. The information reported shall include data and results obtained pursuant to Commission regulations, orders or license conditions, as shown in records maintained by the licensee pursuant to Commission regulations. Each notification and report shall: be in writing; include appropriate identifying data such as the name of the licensee, the name of the individual, the individual's social security number; include the individual's exposure information; and contain the following statement:

This report is furnished to you under the provisions of the Nuclear Regulatory Commission regulation 10 CFR part 19. You should preserve this report for further reference.

(b) Each licensee shall advise each worker annually of the worker's dose as shown in records maintained by the licensee pursuant to the provisions of §20.2106 of 10 CFR part 20.

(c)(1) At the request of a worker formerly engaged in licensed activities controlled by the licensee, each licensee shall furnish to the worker a report of the worker's exposure to radiation and/or to radioactive material:

(i) As shown in records maintained by the licensee pursuant to §20.2106 for each year the worker was required to be monitored under the provisions of §20.1502; and

(ii) For each year the worker was required to be monitored under the monitoring requirements in effect prior to January 1, 1994.

(2) This report must be furnished within 30 days from the time the request is made or within 30 days after the exposure of the individual has been determined by the licensee, whichever is later. This report must cover the period of time that the worker's activities involved exposure to radiation from radioactive material licensed by the Commission and must include the dates and locations of licensed activities in which the worker participated during this period.

(d) When a licensee is required pursuant to §§20.2202, 20.2203, 20.2204, or 20.2206 of this chapter to report to the Commission any exposure of an individual to radiation or radioactive material the licensee shall also provide the individual a report on his or her exposure data included therein. This report must be transmitted at a time not later than the transmittal to the Commission.

(e) At the request of a worker who is terminating employment with the licensee that involved exposure to radiation or radioactive materials, during the current calendar quarter or the current year, each licensee shall provide at termination to each worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose must be provided together with a clear indication that this is an estimate.

[38 FR 22217, Aug. 17, 1973, as amended at 40 FR 8783, Mar. 3, 1975; 44 FR 32352, June 6,

1979; 58 FR 67658, Dec. 22, 1993; 59 FR 41642, Aug. 15, 1994]

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§19.14 Presence of representatives of licensees and workers during inspections.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect materials, activities, facilities, premises, and records pursuant to the regulations in this chapter.

(b) During an inspection, Commission inspectors may consult privately with workers as specified in §19.15. The licensee or licensee's representative may accompany Commission inspectors during other phases of an inspection.

(c) If, at the time of inspection, an individual has been authorized by the workers to represent them during Commission inspections, the licensee shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(d) Each workers' representative shall be routinely engaged in licensed activities under control of the licensee and shall have received instructions as specified in §19.12.

(e) Different representatives of licensees and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

(f) With the approval of the licensee and the workers' representative an individual who is not routinely engaged in licensed activities under control of the license, for example, a consultant to the licensee or to the workers' representative, shall be afforded the opportunity to accompany Commission inspectors during the inspection of physical working conditions.

(g) Notwithstanding the other provisions of this section, Commission inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, an individual who accompanies an inspector may have access to such information only if authorized to do so. With regard to any area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee to enter that area.

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§19.15 Consultation with workers during inspections.

(a) Commission inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Commission regulations and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(b) During the course of an inspection any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which he has reason to believe may have contributed to or caused any violation of the act, the regulations in this chapter, or license condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material under the licensee's control. Any such notice in writing shall comply with the requirements of §19.16(a).

(c) The provisions of paragraph (b) of this section shall not be interpreted as authorization to disregard instructions pursuant to §19.12.

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§19.16 Requests by workers for inspections.

(a) Any worker or representative of workers who believes that a violation of the Act, the regulations in this chapter, or license conditions exists or has occurred in license activities with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the Administrator of the appropriate Commission Regional Office, or to Commission inspectors. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of workers. A copy shall be provided the licensee by the Regional Office Administrator, or the inspector no later than at the time of inspection except that, upon the request of the worker giving such notice, his name and the name of individuals referred to therein shall not appear in such copy or on any record published, released or made available by the Commission, except for good cause shown.

(b) If, upon receipt of such notice, the Regional Office Administrator determines that the complaint meets the requirements set forth in paragraph (a) of this section, and that there are reasonable grounds to believe that the alleged violation exists or has occurred, he shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections pursuant to this section need not be limited to matters referred to in the complaint.

[38 FR 22217, Aug. 17, 1973, as amended at 40 FR 8783, Mar. 3, 1975; 47 FR 30454, July 14, 1982; 52 FR 31610, Aug. 21, 1987]

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§19.17 Inspections not warranted; informal review.

(a) If the Administrator of the appropriate Regional Office determines, with respect to a complaint under §19.16, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, he shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the Executive Director for Operation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, who will provide the licensee with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee may submit an opposing written statement of position with the Executive Director for Operations who will provide the complainant with a copy of such statement by certified mail. Upon the request of the complainant, the Executive Director for Operations or his designee may hold an informal conference in which the complainant and the licensee may orally present their views. An informal conference may also be held at the request of the licensee, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written and oral views presented, the Executive Director for Operations shall affirm, modifying, or reverse the determination of the Administrator of the appropriate Regional Office and furnish the complainant and the licensee a written notification of his decision and the reason therefor.

(b) If the Administrator of the appropriate Regional Office determines that an inspection is not warranted because the requirements of §19.16(a) have not been met, he shall notify the complainant in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of §19.16(a).

[38 FR 22217, Aug. 17, 1973, as amended at 40 FR 8783, Mar. 3, 1975; 52 FR 31610, Aug. 21, 1987]

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§19.18 Sequestration of witnesses and exclusion of counsel in interviews conducted under subpoena.

- (a) All witnesses compelled by subpoena to submit to agency interviews shall be sequestered unless the official conducting the interviews permits otherwise.
- (b) Any witness compelled by subpoena to appear at an interview during an agency inquiry may be accompanied, represented, and advised by counsel of his or her choice. However, when the agency official conducting the inquiry determines, after consultation with the Office of the General Counsel, that the agency has concrete evidence that the presence of an attorney representing multiple interests would obstruct and impede the investigation or inspection, the agency official may prohibit that counsel from being present during the interview.
- (c) The interviewing official is to provide a witness whose counsel has been excluded under paragraph (b) of this section and the witness's counsel a written statement of the reasons supporting the decision to exclude. This statement, which must be provided no later than five working days after exclusion, must explain the basis for the counsel's exclusion. This statement must also advise the witness of the witness' right to appeal the exclusion decision and obtain an automatic stay of the effectiveness of the subpoena by filing a motion to quash the subpoena with the Commission within five days of receipt of this written statement.
- (d) Within five days after receipt of the written notification required in paragraph (c) of this section, a witness whose counsel has been excluded may appeal the exclusion decision by filing a motion to quash the subpoena with the Commission. The filing of the motion to quash will stay the effectiveness of the subpoena pending the Commission's decision on the motion.
- (e) If a witness' counsel is excluded under paragraph (b) of this section, the interview may, at the witness' request, either proceed without counsel or be delayed for a reasonable period of time to permit the retention of new counsel. The interview may also be rescheduled to a subsequent date established by the NRC, although the interview shall not be rescheduled by the NRC to a date that precedes the expiration of the time provided under §19.18(d) for appeal of the exclusion of counsel, unless the witness consents to an earlier date.

[55 FR 247, Jan. 4, 1990, as amended at 56 FR 65948, Dec. 19, 1991; 57 FR 61785, Dec. 29, 1992]

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§19.20 Employee protection.

Employment discrimination by a licensee (or a holder of a certificate of compliance issued pursuant to Part 76) or a contractor or subcontractor of a licensee (or a holder of a certificate of compliance issued pursuant to Part 76) against an employee for engaging in protected activities under this part or Parts 30, 40, 50, 60, 61, 70, 72, 76, or 150 of this chapter is prohibited.

[61 FR 6764, Feb. 22, 1996]

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§19.30 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of --

- (1) The Atomic Energy Act of 1954, as amended;
- (2) Title II of the Energy Reorganization Act of 1974, as amended; or
- (3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of --

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

[57 FR 55071, Nov. 24, 1992]

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§19.31 Application for exemptions.

The Commission may upon application by any licensee or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not result in undue hazard to life or property.

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§19.32 Discrimination prohibited.

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity licensed by the Nuclear Regulatory Commission. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under Title VII of the Civil Rights Act of 1964. This remedy is not exclusive, however, and will not prejudice or cut off any other legal remedies available to a discriminatee.

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§19.40 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 19 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 19 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§19.1, 19.2, 19.3, 19.4, 19.5, 19.8, 19.16, 19.17, 19.18, 19.30, 19.31, and 19.40.

[57 FR 55071, Nov. 24, 1992]

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